

MSGUNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIARafiq Davis**14 4974**

(In the space above enter the full name(s) of the plaintiff(s).)

- against -

Superintendent Mike Wenerowicz
Pennsylvania Board of Probation and Parole
Unit Manager Frank Regan
Counselor T. Fauber
Records Supervisor Tom Rowlands
Records Supervisor Kim Nixon
Parole Supervisor Karen Nyce
Department of Corrections
Christopher Thomas
Attorney General
DRC Gaudenzia

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

COMPLAINT

under the
 Civil Rights Act, 42 U.S.C. § 1983
 (Prisoner Complaint)

Jury Trial: ☒ Yes ☐ No
 (check one)

I. Parties in this complaint:

- A. List your name, identification number, and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff

Name Rafiq DavisID # HY9330Current Institution SCI - GraterfordAddress P.O. Box 244
Graterford, PA 19426

Grievance Coordinator Wendy Shaylor

- B. List all defendants' names, positions, places of employment, and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1	Name <u>Superintendent Mike Wenerowicz</u>	Shield # _____
	Where Currently Employed <u>SCI-GraterFord</u>	_____
	Address <u>P.O. Box 244</u>	_____
	<u>GraterFord, PA 19426</u>	_____
 Defendant No. 2	Name <u>Pennsylvania Board of Probation and Parole</u>	Shield # _____
	Where Currently Employed <u>Pennsylvania Board of Probation and Parole</u>	_____
	Address <u>1101 South Front Street</u>	_____
	<u>Harrisburg, PA 17104-2519</u>	_____
 Defendant No. 3	Name <u>Unit Manager Frank Regan</u>	Shield # _____
	Where Currently Employed <u>SCI-GraterFord</u>	_____
	Address <u>P.O. Box 244</u>	_____
	<u>GraterFord, PA 19426</u>	_____
 Defendant No. 4	Name <u>Counselor T. Foubert</u>	Shield # _____
	Where Currently Employed <u>SCI-GraterFord</u>	_____
	Address <u>P.O. Box 244</u>	_____
	<u>GraterFord, PA 19426</u>	_____
 Defendant No. 5	Name <u>Records Supervisor Tom Rowlands</u>	Shield # _____
	Where Currently Employed <u>SCI-GraterFord</u>	_____
	Address <u>P.O. Box 244</u>	_____
	<u>GraterFord, PA 19426</u>	_____

II. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

- A. In what institution did the events giving rise to your claim(s) occur? SCI-GraterFord
- B. Where in the institution did the events giving rise to your claim(s) occur? _____
- C. What date and approximate time did the events giving rise to your claim(s) occur? August 12, 2014

Defendant No. 6 - Records Supervisor Kim Nixon
SCI-Graterford
P.O. Box 244
Graterford, PA 19426

Defendant No. 7 - Parole Supervisor Karen Nyce
SCI-Graterford
P.O. Box 244
Graterford PA 19426

Defendant No. 8 - Department of Corrections
1920 Technology Parkway
Mechanicsburg, PA 17050

Defendant No. 9 - Christopher Thomas
Philadelphia County Prison System
7901 State Road
Phila, PA 19136

Defendant No. 10 - Attorney General
Strawberry Square
4th & Walnut St., 16th Floor
Harrisburg, PA 17120

Defendant No. 11 - DRC Gaudenzia
3200 Heney Ave
Phila, PA 19129

Defendant No. 12 - Grievance Coordinator Wendy Shaylor
P.O. Box 244
Graterford, PA 19426

What
happened
to you?

Who
did
what?

Was
anyone
else
involved?

Who else
saw what
happened?

D. Facts: On 8-12-14, I received a new DC/E-Sentence status summary by the DOC's Central Office with time credit adjustments amended that changed my Controlling Maximum Date to 4-1-14 which also stated that my current sentence is inactive but I'm still being held in custody at SCI-Graterford even though they are well aware of the time credit that changed my max date to 4-1-14 and my current sentence is inactive. I submitted request slips to Both records supervisors Tom Rowlands, Kim Nixon, the superintendent Mike Wencrowicz, the Parole Supervisor Karen Myce, Unit Manager Frank Regan and Counselor T. Faubert (who I also talked to personally about my situation) refused to answer any of my request slips and do anything to help. I also wrote grievances as well. I even called the Department of Corrections office of special investigations and intelligence numerous times complaining about how I'm being held with an inactive sentence status against my will but he even refused to help (I called the Doc Hotline so many times using my PIN# that they stopped answering so I left messages and when I called using the anonymous PIN# 151100 all of a sudden they answered. They even hung up on me a few times when I used my PIN#. The same with the Crimestoppers Hotline #77). I was informed by counselor T. Faubert to contact the PA Board of Probation and Parole which I wrote 3 letters to. I never received a Pink Action Return Copy From the Grievance Coordinator which I sent request slips to in regards to be she never answered.

See Attachment →

III. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received. Pain and suffering, Mental and emotional distress, Psychological torment, loss of days I will never get back.

IV. Exhaustion of Administrative Remedies:

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." Administrative remedies are also known as grievance procedures.

Facts:

While I was still incarcerated at SCI-Coal Township I filed a Motion for Credit for time served with Christopher Thomas (who the courts directed me to) and sent a copy of the motion to the courts to Docket on 11-20-2014, 3-20-2013, and 5-21-2013 requesting that I receive time credit for time served from 8-20-08 to March 20, 2009. On 7-12-13, I received a new DC16E-sentence status summary with the granted time credit that changed my maximum release date to 8-5-2014. On 10-22-2013 and 11-27-13, I sent two more motion for credit for time served requesting that I receive time credit for time served from 2-20-2008 to 4-4-2008, 5-6-2008 to 7-25-2008. On 1-15-14, I received a new DC16E-sentence status summary taking away the granted time credit from 8-20-08 to 3-20-09 and received credit for 11-10-08 to 11-12-08 (which I was already incarcerated on them dates) which changed my maximum release date to 1-4-15. On 4-7-2014, I was released from SCI-Coal Township on Parole and sent to a CCC Center (DEC Gaudenzia). On 5-1-14, I absconded from the CCC Center. On 5-6-14, I was arrested on charges. On 5-7-14, I arrived at SCI-Graterford. On 5-14-14, I sent Christopher Thomas another Motion for Credit for time served. On 5-22-14 my charges were withdrawn from. On 6-18-14, I received a Notice of Board Decision from the Pennsylvania Board of Probation and Parole which recommitted me as a Technical Parole Violator to a State Correctional Institution/contracted county jail to serve 6 months with a Parole release date of 11-7-2014. The 6 days delinquent time was added to my max changing it from 1-4-15 to 1-10-15. On 7-9-14, I received a new DC16E in regards to the Board's decision with an active sentence. On 8-12-2014, I received a new up to date DC16E with time credit adjustments granting time credit from 2-20-08 to 4-4-08, 5-6-08 to 7-25-08, and 8-20-08 to 3-20-09 changing my controlling maximum to 4-1-14 with an current inactive sentence status which I should be released immediately from confinement. (Note: The errors in regards to the motions for credit for time served I sent Christopher Thomas and the calculation of my time was not made by me. No fault of mine, I completed the motions properly).

Each Defendant violated Plaintiff's Rights under the Fifth, Eighth, Thirteenth, First, Fourteenth Amendment to the United States Constitution by depriving Plaintiff of Liberty/Freedom without the due process of Law, cruel and unusual punishment, slavery/involuntary servitude, denying Plaintiff equal protection of the laws, and denying right to seek redress from prison through use of the prison grievance system for the above said reasons.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

Yes ☒ No ☐

If YES, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

SCI - Graterford and SCI - Coal Township and
DRC Gaudenzia (DRC)

B. Does the jail, prison or other correctional facility where your claim(s) arose have a grievance procedure?

Yes ☒ No ☐ Do Not Know ☐

C. Does the grievance procedure at the jail, prison or other correctional facility where your claim(s) arose cover some or all of your claim(s)?

Yes ☒ No ☐ Do Not Know ☐

If YES, which claim(s)? _____

D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose?

Yes ☒ No ☐

If NO, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

Yes ☐ No ☐

E. If you did file a grievance, about the events described in this complaint, where did you file the grievance?

SCI - Graterford

1. Which claim(s) in this complaint did you grieve? Staff refusal to act and being held past my maximum release date at SCI-Graterford on an inactive sentence.
2. What was the result, if any? Never received the Pink Action Return Copy and wrote request slips to the Facility Grievance Coordinator but received no responses.
3. What steps, if any, did you take to appeal that decision? Describe all efforts to appeal to the highest level of the grievance process. _____

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here: _____

2. If you did not file a grievance but informed any officials of your claim, state who you informed, when and how, and their response, if any: Sent Request slips to Superintendent and received no responses, sent request slips to Parole Supervisor Karen Nyce and received no responses, sent request slips to Records Supervisors Tom Rowlands and Kim Nixon and received no responses, sent request slip to Unit Manager Frank Regan & Counselor T. Faubert and received no responses (even talked to them but was kicked out their offices), called Department of Corrections Abuse Hotline and they stated that it was nothing they can do, called Crimestoppers Hotline the filed information, wrote PA Board of Probation and Parole but have not yet received response, wrote Attorney General office but have yet to receive a response.

- G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies. Contacted, PA Board of Probation and Parole office (via mail), request slips to Superintendent Mike Wenerowicz, Parole Supervisor Karen Nyce, Records Supervisors Tom Rowlands and Kim Nixon, Unit Manager Frank Regan, Counselor T. Faubert, called the Department of Corrections abuse Hotline numerous times, contacted Attorney General office (Via Mail), also called the Crimestoppers Hotline # (777).

Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.

V. Relief:

State what you want the Court to do for you (including the amount of monetary compensation, if any, that you are seeking and the basis for such amount). \$1,500 per day I was held over my controlling maximum date. \$250,000.00 For pain and suffering for errors being made in regards to my sentence computation commitment Credit that was caused by no fault of my own which caused me to be released to a CCC center on Parole after my sentence maximum date, holding me in a State Correctional Institution with an inactive sentence and refusing to release me after being well aware. \$250,000.00 For

Mental and emotional distress causing my current mental health condition (Depression, Anxiety) to worsen causing me to have suicidal thoughts and loss of sleep and also all the things I have to do to be released.

A preliminary and permanent injunction order defendants PA Board of Probation and Parole and Superintendent Mike Wenerowicz to release plaintiff from all Parole Supervision and detention, confinement and any form of incarceration and supervision in regards to parole Number 230 FX.

Each Defendant is being sued in their individual and official capacities jointly and severally.

VI. Previous lawsuits:

A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes ___ No ☒

B. If your answer to A is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another sheet of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff _____

Defendants _____

2. Court (if federal court, name the district; if state court, name the county) _____

3. Docket or Index number _____

4. Name of Judge assigned to your case _____

5. Approximate date of filing lawsuit _____

6. Is the case still pending? Yes ___ No ___

If NO, give the approximate date of disposition _____

On
these
claims

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) _____

C. Have you filed other lawsuits in state or federal court?

Yes ☒ No _____

D. If your answer to C is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff Rafiq Davis

Defendants City of Philadelphia, et al.

2. Court (if federal court, name the district; if state court, name the county) Eastern District of Pennsylvania

3. Docket or Index number 13-6973

4. Name of Judge assigned to your case Mitchell S. Goldberg

5. Approximate date of filing lawsuit December 2013

6. Is the case still pending? Yes ☒ No _____

If NO, give the approximate date of disposition _____

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) _____

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 19th day of August, 2014.

Signature of Plaintiff Rafiq Davis

Inmate Number HY9350

Institution Address SCI - Graterford

P.O. Box 244

Graterford, PA 19426

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1. Plaintiff - Rafiq Davis
Defendants - City of Philadelphia, et al.

2. Court - Eastern District of Pennsylvania
 3. Docket or Index number - 14-3978
 4. Name of Judge assigned to case - Mitchell S. Goldberg
 5. Approximate date of Filing lawsuit - 7-7-2014
 6. Is case still pending - Yes
-

1. Plaintiff - Rafiq Davis
Defendants - Vincent Mooney, et al.

2. Court - Middle District of Pennsylvania
 3. Docket or Index Number - 14-01423
 4. Name of Judge assigned to case - Rambo
 5. Approximate date of Filing Lawsuit - 8-7-2014
 6. Is case still pending - Yes
-

1. Plaintiff - Rafiq Davis
Defendants - City of Philadelphia, et al.

2. Court - Eastern District of Pennsylvania
3. Docket or Index Number - 09-0442
4. Name of Judge assigned to case - Mitchell S. Goldberg
5. Approximate date of Filing Lawsuit - 2009
6. Is case still pending - No
- Deposition Date March 2012
7. Settlement.

Note: All plaintiffs named in the caption of the complaint must date and sign the complaint and provide their inmate numbers and addresses.

I declare under penalty of perjury that on this 19th day of August, 2014, I am delivering this complaint to prison authorities to be mailed to the Clerk's Office of the United States District Court for the Eastern District of Pennsylvania.

Signature of Plaintiff: 